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STATEMENT OF

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CHAIRMAN
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BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON MINORITY ENTERPRISE, FINANCE,
AND URBAN DEVELOPMENT

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Thank you, Mr. Chairman and Members of the Subcommittee for holding this important hearing. I welcome the chance to discuss with you the need to enhance opportunities for all Americans in the communications revolution that is upon us.

We find ourselves today at a very exciting time in the history of telecommunications. New technologies are being developed at a dizzying pace, the industry is expanding dramatically on a daily basis, and our preconceived notions about the fundamental nature of the industry are being shattered. While we once thought local telephone service to be a natural monopoly, today competitors are successfully vying for business in almost all urban markets. Likewise, the cable, telephone, and information industries are converging, demonstrating how technology and competition can create economic advancement.

I believe that the right policy for nurturing this revolution is competition. I also believe that the framework principles for that competition should be choice, opportunity and fairness. This morning I'd like to focus on one of those principles: opportunity. We need to enhance opportunities for all Americans, especially small businesses, women, and minorities. I refer, of course, to the opportunity to compete in our communications revolution.

At the beginning of this decade, in recognition of the dramatic developments in telecommunications, the Commission allocated electromagnetic spectrum for emerging technologies and recently started the process of licensing that spectrum. As a

result, an abundance of new spectrum-based services, such as personal communications services (PCS), soon will be available to American consumers. PCS includes a range of wireless services that are expected to have a fundamental impact on the future development and configuration of all telecommunications networks. As we shape the regulatory environment for these new services, sound policies must be adopted to encourage growth, promote creativity, innovation and efficiency, and to ensure that no one is left behind.

Promoting meaningful opportunities for all competitors is, I think, necessary to help alleviate problems created by the history of prejudice and isolation suffered by minorities in the United States, and the second-class citizenship of women in this country. It is also necessary to foster a telecommunications infrastructure that best serves our communities and our economy.

For example, businesses owned by minority and female entrepreneurs can play an important role in providing services to certain niche markets often overlooked by larger, non-minority companies, thereby promoting our goal of universal service and economic growth. It has also been demonstrated that minority-owned companies typically hire more minority employees than other businesses, furthering the Commission's longstanding equal employment opportunity objectives.

The goal of ensuring equal opportunity in the licensing process is not new to the Commission. Citing the Kerner Commission's findings that there was a "serious racial crisis"

facing the nation, the FCC began in the late 1960s to promote nondiscriminatory employment policies by broadcast licensees.

A decade later, the Commission first addressed the serious underrepresentation of minorities among owners of broadcast stations. Recognizing that it could play an important role in alleviating this problem through the licensing process, the Commission adopted its tax certificate and distress sale policies in 1978 to encourage minority ownership of broadcast facilities. It noted that full minority participation in the ownership and management of broadcast facilities would result in a more diverse selection of programming and would inevitably enhance the diversity of control of a scarce resource, the spectrum. These policies later were extended to cable television services.

While the Commission's policies have produced tangible results, minorities remain seriously underrepresented in ownership. One study conducted in the early 1990s showed that minorities owned only approximately 2.7 percent of broadcast properties, and that there were only seven minority-owned cable companies in the country. Given these statistics, I believe that there continues to be a fundamental obligation for both Congress and the FCC to examine new and creative ways to ensure minority opportunity.

It is particularly important to find innovative methods to promote access to emerging technologies. When the Commission first began to look for measures to increase minority ownership in broadcasting, the broadcast industry was mature and most of

the valuable spectrum already had been licensed. Thus, the Commission's efforts to create more diversity were severely hampered by the lack of new licensing opportunities.

In contrast, today we have a chance to have a meaningful impact on the ability of minorities and women to seize opportunities in new spectrum-based services. As part of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), Congress gave the FCC authority to license the spectrum that the Commission has allocated for emerging technologies through a system of competitive bidding. In so doing, Congress told us to balance a number of competing objectives, including the need to develop and rapidly deploy new technologies, recover for the public a portion of the value of the spectrum, promote the efficient and intensive use of the spectrum, and disseminate licenses among a wide variety of applicants, in particular, small businesses, rural telephone companies, and businesses owned by women and minorities.

The record in the proceeding we instituted to implement OBRA 93 demonstrates that there is a distressing underrepresentation of minorities in telecommunications. For example, a recent study conducted by the U.S. Minority Business Development Agency shows that among businesses involved in telephone and radiotelephone communications, only 0.5 percent are owned by minorities. The Commission's Small Business Advisory Committee (SBAC) found that only eleven minority firms are engaged in the delivery of cellular, specialized mobile radio, radio paging, or messaging

services.

The record also demonstrates that the single greatest obstacle to entry by minorities and women is a lack of access to capital. While this is a problem for most small businesses, a number of commenters state that, because of discrimination and other factors, minorities face additional difficulties. For example, the SBAC observes that minorities frequently are denied access to traditional sources of financing and generally have to rely on family savings or friends. In addition, the SBAC notes that most radio licenses were granted at a time when there was undisguised discrimination in education, employment and capital access, thus excluding minorities from all but token representation. This trend has continued over time and minorities remain seriously underrepresented in the field of telecommunications.

In implementing the auction authority given to it by Congress, the Commission established a menu of preferences, including installment payments, spectrum set-asides, bidding credits, and tax certificates, that it could later choose from on a service-by-service basis to address these concerns. The Commission also adopted definitions of minority and female-owned businesses, small businesses and rural telephone companies (collectively "designated entities") to implement the preference program.

We required that minorities or women have at least a 50.1 percent equity ownership and a 50.1 percent controlling interest

in the designated entity. We are aware that a number of commenters have stated that the 50.1 percent equity requirement may be overly restrictive, and we are looking closely at ways to address this problem.

With regard to small businesses, we adopted the existing Small Business Administration (SBA) definition, and required a small business to show that it has no more than a \$6 million net worth and \$2 million in annual profits for the previous two years. For some services with high capital entry requirements, however, these thresholds might be too restrictive and, therefore, we left ourselves the flexibility to seek SBA approval to modify this definition if necessary. Among the possibilities we are considering is the proposal of the SBA's Chief Counsel for Advocacy to establish a \$40 million revenue threshold for small businesses.

For each service subject to competitive bidding, we should separately attempt to create truly meaningful opportunities for minorities and women to participate both in auctions and in the provision of service, without hurting competition itself. We already have established preference policies for narrowband PCS and interactive video and data service (IVDS). In so doing, we looked at a number of factors, related specifically to those two technologies, including estimated costs to construct systems and acquire licenses, license size, and the potential services that a licensee could offer.

For instance, we determined that narrowband PCS likely will

include a wide variety of applications, including advanced paging, messaging, and advanced cordless telephones and that the system build-out costs would be relatively low. Thus, we believe that narrowband PCS is well-suited to small entities, which can offer an array of services both to the general public and to niche markets. Given these factors, we determined that a 25 percent bidding credit, together with a tax certificate program would be powerful tools to ensure minority and female participation.

Bidding credits will function as a discount on the license acquisition price and, thus, will attack directly the capital access obstacles faced by minorities and women. Tax certificates offered to investors in minority and female-owned enterprises will likewise help these entities attract start-up funding. Finally, a minority or female-owned business that qualifies as a small business will also be eligible for our installment payment option, which allows the applicant to pay off the bid price at a low interest rate over the course of the license term.

As our attention now turns to other services, such as broadband PCS, we are looking at all relevant factors in establishing a preference program that creates meaningful opportunities. At this point, we have not determined exactly which mix will best accomplish the Congressional objectives in the broadband PCS proceeding and we are, of course, interested in learning more about the specific objectives of Congress in the operative legislation.

All available preferences are currently being considered. I note, however, that, as we proceed, it is imperative that we aim to address the goal of creating meaningful opportunities for minorities, women, and small businesses to obtain licenses while recognizing the capital requirements for competing in the marketplace. Preferences that allow entities to bid successfully, but fail to take into account the characteristics of the particular service and the companies involved will result in a short-lived and hollow victory. I do not believe the statute's goals will be satisfied if our policies do not have a lasting, positive effect on the telecommunications industry. Meaningful opportunity means creating successful incentives for the creation of minority and female-owned businesses that are viable and lasting competitors.

I further note, in closing, that in establishing an appropriate regulatory approach to PCS auctions, the Commission is faced with the daunting task of balancing a number of competing Congressional objectives. As I pointed out earlier in my testimony, we have been charged with the responsibility to encourage innovation and efficient use of the electromagnetic spectrum, promote economic growth and diversity, and contribute to the U.S. Treasury billions of dollars in revenues, representing the value of the spectrum owned by all Americans. At the same time, we want to structure a fair auction process that ensures opportunities for a wide array of competitors in the wireless communications market. We appreciate the input of the

Members of this Subcommittee and all the witnesses who are participating here today, as we endeavor to accomplish each of these goals.

I am grateful for the Subcommittee's interest in the work of our agency and for this opportunity to discuss with you our mutual goals of creating diversity and promoting opportunities for all competitors. We have a window of opportunity now to ensure that all Americans have a stake in the communications industry and we cannot let that window close without doing our utmost to make sure that the future includes everyone.

I will be pleased to answer any questions you might have for me.

Thank you.